IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO :26207 of 1998

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Dated: 20th August 2007.

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Between:

V. Krishnacharyulu, s/o Seetharamanuja Charyulu, aged about 31 years, r/o Mettagudipadu, Rentachintala Mandal, Guntur District.

..... PETITIONER

AND

Government of A.P., rep by its Secretary, School Education Department, Secretariat, Hyderabad and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.NO.26207 OF 1998

ORAL ORDER:

This writ petition has been instituted seeking directions to the respondents to consider the claim of the writ petitioner for admission into grant-in-aid post of Telugu Pandit Grade-II in St. Joseph High School, Rentachintala, Guntur District, in terms of the orders passed by the State Government in their G.O.Ms.No.301, dated 25th September 1997, taking into consideration the service rendered by him in an un-aided post in the 5th respondent school from 5th December 1989 to December 1995.

For the purpose of disposing of this writ petition, we can avoid narration of all the facts in detail. Suffice it to state that the 5th respondent-management had filed a detailed counter-affidavit pointing out that the writ petitioner had voluntarily abandoned his employment as a teacher with the school, where as the writ petitioner had been contending that it is the management of the school, which had unjustly terminated his services. But however, it transpired that the writ petitioner had

preferred an appeal on 22nd June 1995 before the Regional Joint Director of School Education, Guntur (henceforth referred to as R.J.D.) against the order of termination passed by the management. It appears that the R.J.D., has entertained the said appeal preferred under Section 80 of the A.P. Education Act, and through his Proceedings Rc.No.787/B3/95, dated 11th March 1996, had also called upon the management of the school to offer its remarks. It is further asserted by the management that it had filed its remarks in the matter before the R.J.D. But however, there are no further details mentioned with regard to the action taken by the R.J.D., on the appeal preferred by the writ petitioner. The learned Government Pleader for School Education, upon instructions, states that the appeal preferred by the writ petitioner was still pending and steps are being taken to dispose of the same.

If the services of the writ petitioner stand terminated lawfully, then, the question of entertaining the present writ petition, in the form in which it has been instituted, does not simply arise. Unless one maintains a subsisting relationship of master and servant, the question of further consideration of such an employee being brought on to the establishment, which is admitted to grant-in-aid by the State

Government, does not arise. For one to be brought on to the establishment, admitted to the grant-in-aid, the subsistence of the relationship of master and servant is vital. If the writ petitioner's services have not been brought to an end by the management of a private educational institution lawfully, the same is liable to be interfered with by an appellate authority exercising the power available to it in terms of Section 80 of the A.P. Education Act, 1982, and thus revive the master and servant relationship. Therefore, the first question got to be addressed is whether the relationship of master and servant is subsisting, between the writ petitioner and the management of the private school concerned, or not.

As, at present, the relationship of master and servant between the management concerned and the writ petitioner has been terminated, but however, the writ petitioner would contend that his services have been terminated illegally. It is, therefore, for the R.J.D., who is the appellate authority, to decide as to whether the services of the writ petitioner have been lawfully terminated or not. I, therefore, consider it appropriate to direct the R.J.D., to decide the appeal preferred by the writ petitioner and entertained by him for consideration of which, he had called for remarks of the management through his Proceedings dated

11th March 1996.

At this stage, the learned counsel for the writ petitioner seeks permission for supplementing the submissions made before the R.J.D.

It is open to the writ petitioner to supplement additional grounds/material in support of his appeal, which is pending on the file of the R.J.D., against the orders of termination passed by the management of the school within a period of fifteen days from today. The writ petitioner shall submit the material and the representations in required numbers to the R.J.D., who will forward one set of the same to the management of the school concerned, providing an additional opportunity to them also to offer their revised remarks/version of the entire matter before the R.J.D. Thus, after hearing the writ petitioner as well as the management, the appeal be decided as expeditiously as is possible, but however, within a span of three months from today. As to whether the writ petitioner should be admitted to a grant-in-aid post or not, the same will have to be addressed and decided by the competent authority depending upon the outcome of the result of the appeal preferred by the writ petitioner to the R.J.D.

With this, the writ petition stands dismissed, but however, without costs.

Nooty Ramamohana Rao, J

Note:

Issue copy of the order in one week.

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mrk

20th August 2007.